THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

–

–

WRIT PETITION NO : 17474 of 2005

Dated: 28-09-2005

–

–

Between:

Gulam Mohd. Khan,

..... PETITIONER

AND

The Regional Passport Officer, Ministry of External Affairs, Secunderabad.

..RESPONDENT.

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 17474 of 2005

ORDER:

This writ petition has been filed by the petitioner with a prayer to issue a writ, order or direction more particularly one in the nature writ of mandamus declaring the action of the respondent in not altering or correcting the date of

birth of the petitioner in the passport as per the Secondary School Certificate, as illegal and arbitrary.

2. It is the case of the petitioner that he was born on 15-5-1976. In the year 1991 he applied for passport and in that application, he inadvertently mentioned his date of birth as 16-08-1970. He was a student of 9th Class at the time of making application for passport. The passport bearing No.BO13788 dated 28-5-1999 came to be issued to him by the respondent and it is valid up to 15-8-2011. He travelled to Saudi Arabia in the month of May, 1993 and stayed there till 1999 by working as an employee in a private company. When he was working as General Typist in M/s. Al-Habtoor Engineering Company (LLC), Dubai, U.A.E., his appointment was terminated by the said company on 31-5-2003 on the sole ground that the date of birth mentioned in the Secondary School Certificate does not tally with the date of birth mentioned in the passport. Then, he detected that his date of birth was mentioned in the passport inadvertently as 16-08-1970 instead of 15-5-1976. When he approached the passport authorities to correct his date of birth, the authorities refused to entertain his application. Hence, this writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government.

4. The issue involved in this writ petition is with regard to the correction of date of birth of the petitioner in the passport basing on Secondary School Certificate. In ALI IMRAN V. REGIONAL PASSPORT OFFICER, SECUNDERABAD this court considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular as under;

a. Where an applicant is seeking rectification/correction of a mistake in the entry on the date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along

with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate would also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e, schoool/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

5. Since such Circular dated 18-4-2001 has been issued by the Ministry of External Affairs with regard to the prescribed procedure for correction of date of birth in the passport, I deem it appropriate to direct the respondent to entertain the application of the petitioner for correction of date of birth in the passport and dispose of the same in accordance with the guidelines issued by the Government of India in circular stated supra.

6. Accordingly, the Writ Petition is disposed of. No order as to costs.

_____

28-09-2005

Note:

CC by one week.

(Bo)

sj